

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred House  
3 Bill No. 410 entitled “An act relating to the use and oversight of artificial  
4 intelligence in State government” respectfully reports that it has considered the  
5 same and recommends that the Senate propose to the House that the bill be  
6 amended by striking out all after the enacting clause and inserting in lieu  
7 thereof the following:

8 Sec. 1. FINDINGS; INTENT

9 (a) The General Assembly finds that:

10 (1) The Vermont Artificial Intelligence Task Force (Task Force),  
11 established by 2018 Acts and Resolves No. 137, Sec. 1, as amended by 2019  
12 Acts and Resolves No. 61, Sec. 20, met from September 2018 through January  
13 2020 to investigate the field of artificial intelligence (AI) and make  
14 recommendations for State action and policies with respect to this new  
15 technology.

16 (2) The Task Force found that this technology presents tremendous  
17 opportunities for economic growth and improved quality of life but also  
18 presents substantial risks of loss of some jobs and invasions of privacy and  
19 other impacts to civil liberties.

20 (3) Large-scale technological change makes states rivals for the  
21 economic rewards, where inaction leaves states behind. States can become

1 leaders in crafting appropriate responses to technological change that  
2 eventually produces policy and action around the country.

3 (4) The Task Force determined that there are steps that the State can  
4 take to maximize the opportunities and reduce the risk, but action must be  
5 taken now. The Task Force concluded that there is a role for local and State  
6 action, especially where national and international action is not occurring.

7 (5) The final report of the Task Force presents a series of  
8 recommendations for policies and actions consistent with the limited role of  
9 Vermont to direct the path of AI development and use in the State. The final  
10 report also concludes that Vermont can make a difference, maximize the  
11 benefits of AI, and minimize, or adapt to, the adverse consequences.

12 (b) It is the intent of the General Assembly to carry out the work of the  
13 Task Force by creating the Artificial Intelligence **Division within the Agency**  
14 **of Digital Services** to implement some of the specific recommendations of the  
15 Task Force and **require the Agency of Digital Services to** conduct an inventory  
16 of all automated decision systems that are being developed, used, or procured  
17 by the State.

18 Sec. 2. 3 V.S.A. § 3303 is amended to read:

19 § 3303. REPORTING, RECORDS, AND REVIEW REQUIREMENTS

20 (a) Annual report and budget. The Secretary shall submit to the General  
21 Assembly, concurrent with the Governor’s annual budget request required

1 under 32 V.S.A. § 306, an annual report for information technology and  
2 cybersecurity. The report shall reflect the priorities of the Agency and shall  
3 include:

4 (1) performance metrics and trends, including baseline and annual  
5 measurements, for each division of the Agency;

6 (2) a financial report of revenues and expenditures to date for the current  
7 fiscal year;

8 (3) costs avoided or saved as a result of technology optimization for the  
9 previous fiscal year;

10 (4) an outline summary of information, including scope, schedule,  
11 budget, and status for information technology projects with total costs of  
12 \$500,000.00 or greater;

13 (5) an annual update to the strategic plan prepared pursuant to  
14 subsection (c) of this section;

15 (6) a summary of independent reviews as required by subsection (d) of  
16 this section; ~~and~~

17 (7) the Agency budget submission; and

18 (8) an annual update to the inventory required by section 3305 of this  
19 title.

20 \* \* \*

1 Sec. 3. 3 V.S.A. § 3305 is added to read:

2 § 3305. AUTOMATED DECISION SYSTEM; STATE PROCUREMENT;  
3 INVENTORY

4 (a) Definitions. As used in this section:

5 (1) “Algorithm” means a computerized procedure consisting of a set of  
6 steps used to accomplish a determined task.

7 (2) “Automated decision system” means any algorithm, including one  
8 incorporating machine learning or other artificial intelligence techniques, that  
9 uses data-based analytics to make or support government decisions, judgments,  
10 or conclusions.

11 (3) “Automated final decision system” means an automated decision  
12 system that makes final decisions, judgments, or conclusions without human  
13 intervention.

14 (4) “Automated support decision system” means an automated decision  
15 system that provides information to inform the final decision, judgment, or  
16 conclusion of a human decision maker.

17 (5) “State government” has the same meaning as in section 3301 of this  
18 chapter.

19 (b) Inventory. The Agency of Digital Services shall conduct a review and  
20 make an inventory of all automated decision systems that are being developed,

1 employed, or procured by State government. The inventory shall include the  
2 following for each automated decision system:

3 (1) the automated decision system’s name and vendor;

4 (2) a description of the automated decision system’s general capabilities,  
5 including:

6 (A) reasonably foreseeable capabilities outside the scope of the  
7 agency’s proposed use; and

8 (B) whether the automated decision system is used or may be used  
9 for independent decision-making powers and the impact of those decisions on  
10 Vermont residents;

11 (3) the type or types of data inputs that the technology uses; how that  
12 data is generated, collected, and processed; and the type or types of data the  
13 automated decision system is reasonably likely to generate;

14 (4) whether the automated decision system has been tested by an  
15 independent third party, has a known bias, or is untested for bias;

16 (5) a description of the purpose and proposed use of the automated  
17 decision system, including:

18 (A) what decision or decisions it will be used to make or support;

19 (B) whether it is an automated final decision system or automated  
20 support decision system; and

1           (C) its intended benefits, including any data or research relevant to  
2           the outcome of those results;

3           (6) how automated decision system data is securely stored and  
4           processed and whether an agency intends to share access to the automated  
5           decision system or the data from that automated decision system with any  
6           other entity, which entity, and why; and

7           (7) a description of the IT fiscal impacts of the automated decision  
8           system, including:

9           (A) initial acquisition costs and ongoing operating costs, such as  
10          maintenance, licensing, personnel, legal compliance, use auditing, data  
11          retention, and security costs;

12          (B) any cost savings that would be achieved through the use of the  
13          technology; and

14          (C) any current or potential sources of funding, including any  
15          subsidies or free products being offered by vendors or governmental entities.

16          Sec. 4. AUTOMATED DECISION SYSTEM; STATE PROCUREMENT;  
17          INVENTORY; REPORT

18          On or before December 1, 2022, the Agency of Digital Services shall  
19          submit to the House Committee on Energy and Technology and the Senate  
20          Committee on Finance a report on the inventory described in 3 V.S.A. § 3305.

1 The report shall include recommendations for any changes to the inventory,  
2 including how it should be maintained and the frequency of updates.

3 Sec. 5. 3 V.S.A. chapter 69 is added to read:

4 CHAPTER 69. DIVISION OF ARTIFICIAL INTELLIGENCE

5 § 5011. DEFINITION

6 As used in this chapter, “artificial intelligence systems” means systems  
7 capable of perceiving an environment through data acquisition and then  
8 processing and interpreting the derived information to take an action or actions  
9 or to imitate intelligent behavior given a specific goal. An artificial  
10 intelligence system can also learn and adapt its behavior by analyzing how the  
11 environment is affected by prior actions.

12 § 5012. DIVISION OF ARTIFICIAL INTELLIGENCE

13 (a) Creation. There is established the Division of Artificial Intelligence  
14 within the Agency of Digital Services to review all aspects of artificial  
15 intelligence systems developed, employed, or procured in State government.

16 The Division shall be administered by a Director of Artificial Intelligence, who  
17 shall be appointed by the Secretary of Digital Services.

18 (c) Powers and duties. The Division shall study and monitor artificial  
19 intelligence systems developed, employed, or procured in State government,  
20 including the following:

1           (1) propose for adoption by the Agency of Digital Services a State code  
2           of ethics for artificial intelligence in State government, which shall be updated  
3           annually;

4           (2) make recommendations to the General Assembly on policies, laws,  
5           and regulations for artificial intelligence systems in State government; and

6           (3) review the automated decision systems inventory created by the  
7           Agency of Digital Services, including:

8                   (A) whether any systems affect the constitutional or legal rights,  
9                   duties, or privileges of any Vermont resident; and

10                   (B) whether there are any potential liabilities or risks that the State of  
11                   Vermont could incur from its implementation.

12           (d) Reports. Annually, on or before January 15 each year, the Division  
13           shall report to the House Committee on Energy and Technology and the Senate  
14           Committees on Finance and on Government Operations on the following:

15                   (1) the extent of the use of artificial intelligence systems by State  
16                   government and any short- or long-term actions needed to optimize that usage  
17                   or mitigate their risks;

18                   (2) the impact of using artificial intelligence systems in State  
19                   government on the liberty, finances, livelihood, and privacy interests of  
20                   Vermont residents;

21                   (3) any necessary policies to:



1           (A) protect the privacy and interests of Vermonters from any  
2           diminution caused by employment of artificial intelligence systems by State  
3           government;

4           (B) ensure that Vermonters are free from unfair discrimination  
5           caused or compounded by the employment of artificial intelligence in State  
6           government;

7           (C) address the use or prohibition of systems that have not been  
8           tested for bias or have been shown to contain bias; and

9           (5) any other information the Division deems appropriate based on its  
10          work.

11          § 5013. ARTIFICIAL INTELLIGENCE ADVISORY COUNCIL

12          (a) Advisory Council. There is established the Artificial Intelligence  
13          Advisory Council to provide advice and counsel to the Director of the Division  
14          of Artificial Intelligence with regard to the Division’s responsibilities to review  
15          all aspects of artificial intelligence systems developed, employed, or procured  
16          in State Government.

17          (b)(1) The Advisory Council shall be comprised of the following members:

18                 (A) the Secretary of Digital Services or designee;

19                 (B) the Secretary of Commerce and Community Development or  
20                 designee;

21                 (C) the Commissioner of Public Safety or designee;

1           (D) the Executive Director of the American Civil Liberties Union of  
2 Vermont or designee;

3           (E) one member who is an expert in constitutional and legal rights,  
4 appointed by the Chief Justice of the Supreme Court;

5           (F) one member with experience in the field of ethics and human  
6 rights, appointed by the Governor;

7           (G) one member who is an academic at a postsecondary institute,  
8 appointed by the Vermont Academy of Science and Engineering;

9           (H) the Commissioner of Health or designee;

10          (I) the Executive Director of Racial Equity; and

11          (J) the Attorney General or designee.

12          (2) Terms. The term of each member shall be four years. As terms of  
13 currently serving members expire, appointments of successors shall be in  
14 accord with the provisions of this section. Appointments of members to fill  
15 vacancies or expired terms shall be made by the authority that made the initial  
16 appointment to the vacated or expired term. Members shall serve until their  
17 successors are appointed. Members shall serve not more than two consecutive  
18 terms in any capacity.

19          (3) Chair and terms. Members of the Council shall elect by majority  
20 vote the Chair of the Council. Members of the Council shall be appointed on  
21 or before August 1, 2022 in order to prepare as they deem necessary for the

1 establishment of the Council, including the election of the Chair of the  
2 Council. Terms of members shall officially begin on September 1, 2023.

3 (c) Meetings. The Council shall meet at the call of the Chair, but not more  
4 than 12 times before January 2024.

5 (d) Quorum. A majority of members shall constitute a quorum of the  
6 Council. Once a quorum has been established, the vote of a majority of the  
7 members present at the time of the vote shall be an act of the Council.

8 (e) Assistance. The Council shall have the administrative, legal, and  
9 technical support of the Agency of Digital Services.

10 (f) Reimbursement. Members of the Council who are not employees of the  
11 State of Vermont and who are not otherwise compensated or reimbursed for  
12 their attendance shall be entitled to compensation and expenses as provided in  
13 32 V.S.A. § 1010.

14 (g) The Advisory Council shall consult with any relevant national bodies  
15 on artificial intelligence, including the National Artificial Intelligence  
16 Advisory Committee established by the Department of Commerce, and its  
17 applicability to Vermont.

1 **Sec. 6. ARTIFICIAL INTELLIGENCE ADVISORY COUNCIL;**

2 **IMPLEMENTATION**

3 (a) First meeting. The first meeting of the Artificial Intelligence Advisory  
4 Council shall be called by the Secretary of Digital Services or designee. All  
5 subsequent meetings shall be called by the Chair.

6 (b) Staggered terms. Notwithstanding Sec. 5 of this act, the initial terms of  
7 the Council members beginning on September 1, 2022 shall be as follows:

8 (1) The member appointed pursuant to 3 V.S.A. § 5013(b)(1)(E) shall be  
9 appointed to a two-year term.

10 (2) The member appointed pursuant to 3 V.S.A. § 5013(b)(1)(F) shall be  
11 appointed to a three-year term.

12 (3) The members appointed pursuant to 3 V.S.A. § 5013(b)(1)(G) shall  
13 be appointed to a four-year term.

14 **Sec. 7. DIVISION OF ARTIFICIAL INTELLIGENCE; REPORTS AND**  
15 **RECOMMENDATIONS**

16 (a) On or before January 15, 2023, the Division shall include in its report  
17 required under 3 V.S.A. § 5012(d):

18 (1) the State code of ethics as described in 3 V.S.A. § 5012(c)(1); and

19 (2) what policies the State should have for a third-party entity to  
20 disclose potential conflicts of interest prior to purchasing or using their

1 technology and how the State should evaluate those conflicts with respect to  
2 how the State intends to implement the technology.

3 (b) On or before January 15, 2024, the Division shall develop  
4 recommendations for a clear use and data management policy for State  
5 government in its report required under 3 V.S.A. § 5012(d), including  
6 protocols for the following:

7 (1) how and when an automated decision system will be deployed or  
8 used and by whom, including:

9 (A) the factors that will be used to determine where, when, and how  
10 the technology is deployed;

11 (B) whether the technology will be operated continuously or used  
12 only under specific circumstances; and

13 (C) when the automated decision system may be accessed, operated,  
14 or used by another entity on the agency’s behalf and any applicable protocols;

15 (2) whether the automated decision system gives notice to an individual  
16 impacted by the automated decision system of the fact that the automated  
17 decision system is in use and what information should be provided with  
18 consideration to the following:

19 (A) the automated decision system’s name and vendor;

20 (B) what decision or decisions it will be used to make or support;

1           (C) whether it is an automated final decision system or automated  
2 support decision system;

3           (D) what policies and guidelines apply to its deployment;

4           (E) whether a human verifies or confirms decisions made by the  
5 automated decision system; and

6           (F) how an individual can contest any decision made involving the  
7 automated decision system;

8           (3) whether the automated decision system ensures that the agency can  
9 explain the basis for its decision to any impacted individual in terms  
10 understandable to a layperson, including:

11           (A) by requiring the vendor to create such an explanation;

12           (B) whether the automated decision system is subject to appeal or  
13 immediate suspension if a legal right, duty, or privilege is impacted by the  
14 decision; and

15           (C) potential reversal by a human decision maker through a timely  
16 process clearly described and accessible to an individual impacted by the  
17 decision; and

18           (4) what policies the State should have for a third-party entity to  
19 disclose potential conflicts of interest prior to purchasing or using their  
20 technology and how the State should evaluate those conflicts with respect to  
21 how the State intends to implement the technology.

1        (d) On or before January 15, 2025, the Division shall recommend for  
2        inclusion in its report required under 3 V.S.A. § 5012(d):

3            (1) whether the scope of the Division should be expanded to include  
4        artificial intelligence outside of State government;

5            (2) whether there should be any changes to the structural oversight,  
6        membership, or powers and duties of the Division;

7            (3) whether the Division should cease to exist on a certain date; and

8            (4) whether there are any other additional tasks the Division should  
9        complete.

10        (e) As used in this section:

11            (1) “Automated decision system” means any algorithm, including one  
12        incorporating machine learning or other artificial intelligence techniques, that  
13        uses data-based analytics to make or support government decisions, judgments,  
14        or conclusions.

15            (2) “Automated final decision system” means an automated decision  
16        system that makes final decisions, judgments, or conclusions without human  
17        intervention.

18            (3) “Automated support decision system” means an automated decision  
19        system that provides information to inform the final decision, judgment, or  
20        conclusion of a human decision maker.

1 **Sec. 8. DIVISION OF ARTIFICIAL INTELLIGENCE; POSITION**

2 The establishment of the permanent exempt position is authorized in fiscal  
3 year 2023 in the Agency of Digital Services to manage and implement the  
4 work of the Division of Artificial Intelligence, established in 3 V.S.A. § 5012,  
5 and to serve as the State expert on artificial intelligence use and oversight  
6 within State government. This position shall be transferred and converted  
7 from existing vacant positions in the Executive Branch and shall not increase  
8 the total number of authorized State positions. The position shall be funded  
9 from existing resources within the Agency.

10 **Sec. 9. EFFECTIVE DATE**

11 This act shall take effect on July 1, 2022.

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15 (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

FOR THE COMMITTEE